

HOUSING SOLUTIONS GROUP

DATA PROTECTION POLICY

Reference: HSL/JE/DPA/06

Approved: 09.02.94

Revised: 13/12/06

1 **Statement of Intent**

- 1.1 The Housing Solutions Group (the Group) holds personal and confidential information about its employees, board members, employment applicants, tenants, former tenants, leaseholders, housing applicants and suppliers. All individuals have a right to privacy and the Group is bound by the Data Protection Act 1998.
- 1.2 This policy sets out how the Group protects and promotes the rights of individuals and groups. It identifies the information that is to be treated as confidential and the procedures for collecting, storing, handling and disclosing such information.
- 1.3 This policy replaces the 'Access to Personal Information & Confidentiality Policy' and includes the Group's Data Protection Procedures.
- 1.4 This policy applies to the Group and all of its subsidiaries:
 - Bridgewater Housing Limited;
 - Furnival, and;
 - Maidenhead and District Housing Association.

2 **Aims**

- 2.1 The Group aims to:
 - 2.1.1 Provide staff with detailed guidance on the Data Protection Act 1998;
 - 2.1.2 Ensure that staff do not misuse any confidential information gained during their employment, nor pass on such information improperly to a third party;
 - 2.1.3 Ensure that staff do not publish or cause to be published any information regarding tenants of the Group or details of the Group's operation without prior approval from the appropriate delegated authority;
 - 2.1.4 Undertake not to provide information about individual customers including present or former tenants, unless legally advised to do so or with their

HOUSING SOLUTIONS GROUP

permission, and;

- 2.1.5 Undertake not to provide personal information concerning present or former staff unless legally advised to do so or with their permission.

3 The Legal Framework

3.1 The Data Protection Act 1998 (DPA) seeks to strike a balance between the rights of individuals and the interest of those with legitimate reasons for using personal data. It places obligations on those who process information whilst giving rights to those who are the subject of that data.

3.2 The Information Commissioner's Office (ICO) is responsible for enforcement of the DPA. In line with its obligations to do so, the Group makes an annual notification to the ICO detailing the systems containing data and the purposes for which data is used.

3.3 This policy and the related procedure have been updated to reflect good practice on 'subject access requests' following the Court of Appeal's decision in *Durant v Financial Services Authority* (2003). See section 7.2 below for relevant details.

3.4 The Freedom of Information Act 2000 (FOIA) applies only to public bodies such as local councils and NHS Trusts. The FOIA does not apply to housing associations as these are not public bodies. The Group and its subsidiaries are therefore not bound to comply with the FOIA in the direct delivery of its services.

3.5 However the FOIA does apply to information held or provided by the Group where it is working in direct partnership with relevant public bodies on a particular service.

3.6 This means that any information supplied by the Group to a public body falls under the FOIA. This can range from an email sent to a relevant public body through to planning applications and tender documents supplied for contract bidding. Due care and caution should always be exercised when communicating with public bodies.

4 Responsibilities

4.1 The Information Technology Manager is the nominated 'data controller' and 'data user' for the Company. They are also responsible for ensuring that staff and board members comply with this policy.

4.2 It is the responsibility of all staff and board members to maintain confidentiality as set out in this policy. A breach of confidentiality is a serious offence and all staff must inform a senior manager if they are made aware of a breach of confidentiality.

HOUSING SOLUTIONS GROUP

5 Information held

- 5.1 All individuals will be made aware of the reasons why personal information is required and the people likely to have access to it. This information will be relevant for the purpose for which it is required and will be kept securely. The appropriate measures to ensure this security are set out in the accompanying procedure.
- 5.2 We will make every effort to ensure that information held is accurate and up to date by the timely updating of records held. It will be explained to individuals that they have a duty to inform the Company if their circumstances change in order that we can update the information held.
- 5.3 **Employees and job applicants**
 - 5.3.1 Confidential information relating to all employees is held by the Human Resources Department. Some further or detailed information may be held by the Finance Department, i.e. in relation to the administration of the monthly payroll or pension details. The Human Resources and Finance departments will not attempt to gain access to information that it is not necessary for them to hold.
 - 5.3.2 Employment application forms will contain a paragraph outlining how the application form will be used and seeking consent from the applicant. If this information is to be disclosed to another party, consent will be sought from the individual and an explanation given to the implications of giving their consent.
 - 5.3.3 Information relating to applications made by potential employees will be held for a maximum of a year from the closing date set out in the advertisement. After this period, the application forms of unsuccessful candidates will be destroyed. Anonymous information, such as the equal opportunity statistics of candidates will be retained.
- 5.4 **Existing, potential and former customers and suppliers**
 - 5.4.1 Confidential information relating to existing, potential and former customers and suppliers is held on the housing database, the main file server, the e-mail system and paper files in the relevant operational departments.
 - 5.4.2 Tenants and housing applicants will be given a form outlining data processing expectations and seeking consent from the individual to use this information for the relevant purpose. A leaflet on Data Protection is also published.
 - 5.4.3 Staff who handle confidential information will ensure that this information remains confidential in line with the good practice guidance detailed in the accompanying procedure.
 - 5.4.4 Information relating to tenants, leaseholders and housing applicants will be held for as long as necessary to perform the functions of the Group.

6 Disclosure of Information

- 6.1 Confidential information will only be passed on to other organisations on a need to know basis and with an individuals consent unless there are exceptional circumstances. Exceptional circumstances include:
 - 6.1.1 Where there is a clear evidence of fraud;
 - 6.1.2 In order to comply with the law;
 - 6.1.3 In connections to legal proceedings;
 - 6.1.4 Where it would be essential for the Group to carry out its duties, e.g. where the health and safety of an individual would be at risk by not disclosing the information, and;
 - 6.1.5 Anonymously for statistical or research purposes.
- 6.2 In certain cases, the Group will, or may in future, sign up to Information Sharing Protocols with other agencies such as the police, Crime and Disorder Reduction Partnerships, etc. These protocols are aimed at allowing the transfer of information between agencies for the benefit of the individuals or communities. Information which is shared amongst such forums is confidential outside the membership of the protocol group. Where reasonable, the individual should be informed that information about them will be subject to discussion at such a forum.
- 6.3 The Group is a signatory to the Audit Commission's 'National Fraud Initiative' (ACNFI) which brings together data from NHS bodies, local authorities, government departments and other agencies (such as RSLs) to detect fraud in the public sector. Information on the Group's employees and customers is shared with the ACNFI to enable comparisons of data across the public sector to identify possible fraudulent activity. The ACNFI is exempt from the DPA 1998.
- 6.4 General guidance on what information a landlord can release is provided by the Information Commissioners Office. Details can be found on appendix 2.
- 6.5 All tenants are requested to sign a standard data consent form (appendix 3) which outlines the group's approach to data protection.

7 Access to Personal Files by the Group's Customers

- 7.1 Generally, the Group:

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- 7.1.1 Extends to any customer the right of access to files or other records containing information relating to their present, proposed or past tenancies.
- 7.1.2 An administration fee of £10 will be charged for access to such files including provision of copies where relevant;
- 7.1.3 Extends to customers the right to request the deletion or correction of any inaccurate information held on files, and;
- 7.1.4 Protects confidential information relevant to or provided by a third party by refusing to allow access to that information unless the third party has given express permission.
- 7.2 Subject Access Requests.
 - 7.2.1 The DPA allows individuals certain rights regarding information about them held by the Group in a 'relevant filing system'.
 - 7.2.2 A 'relevant filing system' must be:
 - structured by reference to individuals in a way that makes their personal data readily accessible to staff;
 - of a standard similar to computer held personal data in terms of access, and;
 - of a type that does not involve staff having to carry out a manual search for information.
 - 7.2.3 In practice this means that information held on the IBS and other computer systems or in paper filing systems would be available.
 - 7.2.4 The reason for subject access requests is for individuals to check whether an organisation's handling of their personal details unlawfully infringes on their privacy. It can not be used as an automatic key to any information in which an individual has been named.
- 7.3 Data access procedure for customers.
 - 7.3.1 All requests for access to personal data by the Group's customers must be made in writing.
 - 7.3.2 The Group will provide the information as soon as possible but, in any case, no later than 28 days from the date the request is received. The information can be sent by post or an appointment can be made to view the data at the Association's office.

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7.3.3 The Group may refuse to meet requests for information that are received more frequently than once in three months or twice in any twelve month period.

7.3.4 Applications for data access and subsequent actions will be logged by each department and made available to the Data Controller as required.

8 Access to Personal Files by Staff

8.1 The Group will ensure that;

8.1.1 All documents on an employee's personal file originating with the Group will be made available to that employee;

8.1.2 Employees are able to see their own personal file with the exception of confidential references provided to or by the Group;

8.1.3 Employees have the right to see any correspondence contained in their personal file relating to medical matters, and;

8.1.4 Notes taken by a manager relating to standard or conduct of work will be dealt with in accordance with approved Personnel Policies.

9 Access to Personal Data by Board Members

9.1 Board Members shall have access at all reasonable times to information necessary for the performance of their duties.

9.2 Board Members will have no access to personal data unless they can demonstrate good reason.

10 Training

10.1 The responsibility for ensuring that staff are trained to give appropriate information and advice in accordance with this policy lies with their manager.

10.2 General guidance notes for staff are located in Appendix 1.

11 Complaints

11.1 Any customer aggrieved by a perceived misuse of personal data or a refusal to be allowed access to information or to amend alleged inaccuracies has the right to complain in accordance with the Group's Complaints Procedure.

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12 Equality and Diversity

- 12.1 Housing Solutions Group is committed to a policy of fair and equal treatment for all its members, tenants, employees and applicants, regardless of religion, sexual orientation, age, class, racial origin, sex, disability or marital status as determined in the Equality & Diversity Strategy.

13 Review

- 13.1 This policy will be reviewed on a 3 yearly basis or in response to changes in legislation, regulatory guidance, good practice or changes in other relevant Housing Solutions Group policy.

Data Protection Policy - Appendix 1

Guidance for Staff on How to Handle Customer's Personal Data

- 1 The Data Protection Act 1998 establishes the principles for handling an individual's personal data.
 - 1.1 These principles are that personal data:
 - 1.1.1 Must be processed fairly and lawfully and must not be processed unless one of a number of conditions are met. These include:
 - an individual's consent, and;
 - necessary for the performance of a contract;
 - 1.1.2 must be processed for limited purposes;
 - 1.1.3 must be adequate, relevant and not excessive for the purposes for which it was obtained;
 - 1.1.4 must be accurate and kept up to date;
 - 1.1.5 must not be kept for longer than necessary;
 - 1.1.6 must be processed in accordance with the data subject's rights;
 - 1.1.7 must be held securely, and;
 - 1.1.8 must not be transferred outside the European Economic Area.
 - 1.2 The Act applies to almost every conceivable use of personal data, from the moment the data is obtained to the method of recording, retrieving, disclosing and destroying it.
 - 1.3 The principles cover both personal data held on IT systems and paper files and covers both facts and opinions about the individual.
 - 1.4 These guidelines are intended to help you handle data correctly. If you have any queries or concerns please speak to your line manager.
- 2 **How To Keep Data Secure And Prevent It From Being Disclosed To Unauthorised Third Parties.**
 - 2.1 **When Using Your Computer:**
 - Change your computer password regularly;
 - Do not disclose your password to anyone else;

HOUSING SOLUTIONS GROUP

- Remember to log out of the system if you are not using it;
- Make sure your visitors are not able to read your computer screen, and;
- If you use a lap top outside the office please ensure that you keep it with you or in a locked environment at all times and that any data / information is password protected.

2.2 When Accessing an Individual's Paper File

- Make sure that your visitors are not able to read any personal files on your desk;
- Ensure that printed material containing personal information is either filed or shredded and not recycled or thrown in the bin;
- Do not leave files or other personal information on your desk at the end of the day. Ensure that it is locked away either in a filing cabinet or another designated place;
- Lock all filing cabinets containing individual's files at the end of the day. (Our insurers have confirmed their agreement to this);
- If you remove an individual's files or other personal information from the office please ensure that is kept safely within a locked briefcase /bag, and;
- Medical, criminal records and other material of a highly sensitive nature should be treated especially carefully.

2.3 Telephone Calls:

- Do not disclose personal data over the telephone without authenticating the identity of the caller.
- If a company or organisation:
 - (e.g. utility) take down the main switchboard number and ring them back;
 - Examples include requests for telephone job references and information about tenants;
 - Ensure that you have the individual's permission before releasing information to third parties.
- If it is an individual claiming to be a tenant you should run through some standard security queries using data available on IBS regarding the tenant.
 - E.g. full name and address including postcode.
 - Names of other joint tenants (if applicable).
 - Recent rent payments (if applicable).
 - Recent repairs (if applicable)
 - Date of birth (if data held).
- Always ensure you take reasonable steps to ensure you have attempted to confirm the callers identity.
- When taking credit or debit card payments over the telephone staff should ensure that personal details are kept secure and that cash office procedures are followed.

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2.4 E-Mail:

- E-mail is not necessarily a secure way of sending information and should not be used for sensitive, private or confidential matter.
- E-mails referring to an individual or organisation can be requested as part of a data request (either under the DPA 1998 or the FOIA 2000 for dealings with public bodies) and staff should ensure that content is at all times accurate and reflective of Group policy and that the tone is appropriate and professional.

2.5 Sharing Information:

- You must obtain the individual's written consent before you share information with a third party, unless it is:
 - To notify a utility of the current occupant of a property;
 - To assist with the prevention or detection of crime including tackling anti-social behaviour, or;
 - Requested by a Government body.

3 What Information Should I Record And Hold?

3.1 The Act states that the information you hold should be adequate, relevant, not excessive and accurate.

3.2 Relevant

3.2.1 Only record or keep information that is relevant to the individual's application for housing, their tenancy or the job they have applied for. If it does not relate specifically or is not relevant don't record it or keep it.

3.3 Not Excessive

3.3.1 Keep information to a minimum but enough to enable you to fulfill the function you are completing.

3.3.2 Keep it simple, and factual.

3.3.3 If it is necessary to hold additional information about certain individuals, such information should only be collected and recorded in those cases.

3.3.4 It is not acceptable to hold information on the basis that it might possibly be useful in the future without a view of how it will be used.

3.4 Accurate

3.4.1 Data is inaccurate if it's incorrect or misleading as to any matter of fact.

3.4.2 Ensure that your data is accurate and kept up to date.

HOUSING SOLUTIONS GROUP

- 3.4.3 Data is more likely to be challenged for accuracy if it contains subjective or irrelevant comments.
- 3.4.4 Use every opportunity to check that your files are up to date and accurate e.g. each time you access an individual's data.

4 Holding Information on Staff

- 4.1 Only information relating to the Performance Management System and on-going staff issues should be held by managers. All other information should only be held on their personnel file.

5 Red Flag Procedures

- 5.1 If an individual is red flagged:
- 5.1.1 Make a file note of why the individual is 'red flagged ';
- Record the incident accurately;
 - Keep it objective and factual;
 - Do not record unsubstantiated or subjective comments.
- 5.1.2 Remember that an individual has the right to see all the information we hold.
- 5.1.3 If you receive information from a third party that leads you to 'red flag' an individual make a file note recording what they told you and that the information was provided by a third party. (You do not have to disclose this information to the individual unless you have the permission of the third party).
- 5.1.4 Please also ensure that you are aware of the Group's health & safety procedures when dealing with tenants / applicants or members of the public e.g. Lone Working Procedures.
- 5.1.5 For more detailed advice please refer to the Group's Red Flag procedure.

6 Requests from Individuals to See Their Files or Personal Information

- 6.1 An individual has a legal right to request access to any information we hold about them. This request must be in writing.
- 6.2 The Group has an obligation to comply with requests promptly and up to a maximum of forty days (we state publicly that we will do this within 28 days) from the receipt of the request.
- 6.3 The Group charges a flat £10 administration fee for requests to access personal information.

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6.4 The individual is entitled to know:

- the type of data we hold about them;
- the purposes for which we hold the data, and;
- who the data may be disclosed to.

6.5 They are also entitled to:

- A copy of any information we hold about them with any unintelligible terms explained, and;
- An explanation of where the information came from.

6.6 Remember that we hold personal information in a number of different formats including paper files and on IT systems such as rents, repairs (responsive and planned), allocations etc.

6.7 The individual has a right to rectify, block, erase or destroy personal details if they are inaccurate or contain expressions of opinion based on inaccurate data.

6.8 You do not have to disclose data if it involves sharing data about another individual, unless that person has given their consent.

6.9 If the data relating to that other person could be deleted or blanked out then that would be fine providing the other text does not give information which could lead them to that person e.g. in a complaint (unless the complainant has given you consent) you must not disclose their details.

6.10 You also can withhold data if in that particular case it might prejudice the prevention and detection of crime, or the prosecution or apprehension of offenders or the assessment or collection of any tax or duty. E.g. information about drug dealing by a tenant.

7 Who Is Responsible For Responding To Requests For Information?

Individual Requesting Information	Responsible Officer
Housing applicant	Lettings Manager
MDHA tenant	Neighbourhood Manager
BHL tenant	Supported Services Manager
Leaseholders or shared owners	Leasehold Manager

HOUSING SOLUTIONS GROUP

Contractors / Members of Maintenance Membership Scheme	Asset Management Operations Manager
Employees / job applicants	Personnel Manager

8 How Long Should Personal Data Be Kept For?

- 8.1 The DPA states that personal data should not be kept for longer than is necessary.
- 8.2 The Group's policy on the length of time we keep personal data differs according to the type of document. *(see table below for further details)*
- 8.3 Document Retention.

Document	Statutory Retention Period	Statutory Retention Source	Recommended Retention Period	Comments
Application for accommodation	N/A	N/A	6 years after offer accepted	Best practice
CORE data record form	N/A	N/A	None	HC requires form to be destroyed immediately statistics have been recorded
HB notifications	N/A	N/A	2 years	Recommendation of Institute of Rent Officers
Rent statements	N/A	N/A	2 years	Best practice
Current tenants' Tenancy Files, inc. rent payment records / complaints / harassment cases	N/A	N/A	Indefinitely	IHO recommendations For rent payment details best practice suggests live system holds 2 yrs + current yr.
Former tenants' Tenancy files, inc. rent payment records / complaints / harassment cases	N/A	N/A	3 – 5 years	IHO recommendation. 5 yrs is on an exception basis where the file contents are judged sufficiently important.

HOUSING SOLUTIONS GROUP

Former tenants' Tenancy Agreements and details of their leaving	N/A	N/A	Permanently	IHO recommendation
Care plans for children and related documents	75 years	Children's Act	Permanently	Some documents may be transferred to subsequent caring agency
Care plans for adults and related documents	N/A	N/A	Permanently	May be subject to DPA. Some documents may be transferred to subsequent caring agency
Documentation, correspondence and information provided by other agencies relating to special needs of current tenants	N/A	N/A	While tenancy continues	Information held on 'need to know' basis. Medical and Social Services records liable to be confidential. To be returned or passed to subsequent agency at end of tenancy, or destroyed
Records relating to offenders, ex-offenders and persons subject to cautions	N/A	N/A	While tenancy continues	Information held on 'need to know' basis. Probation and police sourced records may be confidential. To be dealt with as required by probation service and police.
Short lists, interview notes and related application forms	N/A	N/A	1 year	IPD recommendation
Application forms of non-short listed candidates	Three months after notification	SDA & RRA	6 months	Recommendation of CRE and EOC

9 What Happens If I Breach Data Protection Guidelines?

- 9.1 Breaches of the data protection act may result in disciplinary action.
- 9.2 You also may personally be liable for a fine of up to £5000 and could get a criminal record.

Appendix 2 – Data Protection Policy Information Commissioner’s Guidance for Landlords



Information Commissioner's Office
Promoting public access to official information
and protecting your personal information

1 Data Protection Good Practice Note - Disclosing information about tenants

1.1 This good practice note answers some frequently asked questions from landlords about how the Data Protection Act 1998 applies to them, the information they hold about their tenants and information held on their behalf by a letting agent.

2 A landlord’s legal obligations to disclose information

2.1 The Data Protection Act 1998 will not prevent a landlord from releasing personal information where they have a legal obligation to do so. For example, under the Landlord and Tenant Acts landlords may have to provide an unedited copy of the service charge account to a tenant if he or she asks for it. If so, the landlord will have to comply with the request even if it means revealing information about other tenants.

3 Can a landlord pass the names of new tenants to the utility companies?

3.1 Yes. A landlord has a legitimate interest in making sure that utility charges are directed to those responsible. However, landlords should tell individuals when they first agree to the tenancy that their details will be passed on.

4 Can landlords see references which were provided to the letting agents?

4.1 The agent can pass this information to the landlord, as long as, when the reference is asked for, they make clear to the tenant and the referee that this will happen.

5 Can landlords put up a list of tenants who are in arrears?

5.1 No. Information about an individual’s debts should only be given out in limited circumstances. It is only justifiable to tell tenants if someone has not paid their

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rent if this has a direct effect on them, for example, if they become legally responsible to help meet any shortfall in shared maintenance charges.

6 Can landlords disclose details of a tenant who left without paying the rent?

- 6.1 Where a tenant leaves without paying the rent, and without making any arrangement to pay, landlords may provide their details to a tracing agent or debt collection company to help them recover money owed to them. However, it would be good practice to make tenants aware when they sign the tenancy agreement that in such circumstances this will happen. This may also help tenants think twice about not paying rent.

7 Giving out information

- 7.1 In general, landlords should make clear to tenants when they sign the tenancy when and how their information will be given out. However, if an emergency repair needs to be carried out, it would not breach the Act to go ahead and provide tenants' contact details to the repairers. On the other hand, if a domestic contractor is looking for work the tenants should be left to contact the contractor rather than the landlord giving out the tenants' details without their knowledge or agreement.

8 Good practice checklist

- 8.1 Before you give out information, consider the following points to help make sure you are giving out the information fairly.
- 8.1.1 Whether the information you want to give out is personal information
 - 8.1.2 Whether you have told the tenants that you may give out this information, and in what circumstances
 - 8.1.3 Who you are giving the information to and why they want it
 - 8.1.4 Any legal obligation to give out the information
 - 8.1.5 Whether it is really necessary to give out the information

9 More information

- 9.1 If you need any more information about this or any other aspect of data protection, please contact us.

Phone: 01625 545745
E-mail: mail@ico.gsi.gov.uk
Website: www.ico.gov.uk

**Appendix 3 – Data Protection Policy
Customer Consent Form**

- 1 Attached is the Housing Solutions Group's 'Data Protection Act 1998 Consent Form'.
- 2 This is for use by the Lettings Department when tenants are signed up for new tenancies, either from the waiting list or internal transfers or mutual exchanges.

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HOUSING SOLUTIONS LIMITED / MAIDENHEAD & DISTRICT HOUSING ASSOCIATION / BRIDGEWATER HOUSING LIMITED / FURNIVAL HOUSING DATA PROTECTION ACT 1998 CONSENT FORM

The Housing Solutions Group and its subsidiaries (listed above) are registered under the Data Protection Act 1998 to hold information about you. This can include your name and address, your ethnic origin, a health condition and other information that is relevant to managing your tenancy or providing you with advice and support. We will hold your data securely whilst you hold a tenancy with us and for 10 years after your tenancy has terminated.

We may in some circumstances share your personal information with other agencies or organisations. This includes local authorities, contractors, the police and any other organisation with whom we work where the law allows. For example, we may share information with a local authority for the purposes of processing your housing benefit claim or let a utility company know who is living in a particular home.

We may also use the information you provide to undertake research and to report statistics to the Housing Corporation, local authorities and other government agencies. We will always present research findings and statistics anonymously so that no individual can be identified.

The Data Protection Act provides you with the right to see the information we hold about you. If you wish to see this information please put your request in writing to us. We are legally obliged to make this information available within 40 days of your request (but we aim to do this within 28 days) and we are entitled to charge you a fee (which is presently set at £10).

Our Data Protection Policy outlines our approach to data protection in full. You can view this policy on our website (www.mdha.co.uk) or request a copy from any member of staff. If you require any further information on this matter please speak to any member of staff. For independent advice please contact an appropriate agency such as the Citizens Advice Bureau (www.citizensadvice.org.uk) or the Information Commissioners Office (www.ico.gov.uk).

I / We hereby give my / our consent to Maidenhead and District Housing Association / Bridgewater Housing Limited / Furnival / Housing Solutions Group holding, maintaining and processing my data and where appropriate sharing it with third parties such as those outlined above.

Print Name		Signature	
Print Name		Signature	
Address			